

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: MCKESSON CORP.)	
4835 Crumpler Rd)	Shelby County
Parcel ID Map 93, Blk. 700, Parcel 297C)	
Commercial Property)	
Tax Years 2001, 2002)	

ORDER
Statement of the Case

These appeals have been filed on behalf of the above noted taxpayer by Mr. Jerry Caruthers. Mr. Caruthers subsequently filed Motions to Dismiss Increase in Assessment by Shelby County Board of Equalization, in fact Mr. Caruthers states in the application for the appeal, in response to question 16 of the appeal forms for 2001 and 2002 that "*The County Board was not in session and therefore could not act on this assessment change*" as his basis/ground for the appeals. The Shelby County Assessor's Office has chosen not to respond to the Motions.

Findings of Facts and Conclusions of Law

A taxpayer/ property owner has the right to contest an assessment that he/she believes is unfair. TENNESSEE CODE ANNOTATED § 67-5-1407 sets forth the grounds for an appeal to the County Board:

(a) (1) Any owner of property or taxpayer liable for taxation in the state has the right by personal appearance, or by the personal appearance of the duly authorized agent of the owner of the property, which agency shall be evidenced by a written authorization executed by the owner or taxpayer, or by representation by an attorney, to make complaint before the county board of equalization **on one (1) or more of the following grounds:**

(A) Property under appeal or protest by the taxpayer has been erroneously classified or sub classified for purposes of taxation;

(B) Property under appeal or protest by the taxpayer has been assessed on the basis of an appraised value that is more than the basis of value provided for in part 6 of this chapter; and

(C) Property other than property under appeal or protest by the taxpayer has been assessed on the basis of appraised values which are less than the basis of value provided for in part 6 of this chapter. [emphasis supplied]

This statute must be analyzed and read in conjunction with TENNESSEE CODE ANNOTATED § 67-5-1412 , which states in relevant part, pertaining to an appeal of a county or other local board action to the state board, that such appeal is only authorized as follows:

(a) (1) Any taxpayer, or any owner of property subject to taxation in the state, who is aggrieved by any action taken by the county board of equalization or other local board of equalization has the right to a hearing and determination by the state board of equalization of any complaint made **on any of the grounds provided in** [TENNESSEE CODE ANNOTATED] § 67-5-1407. . . . [emphasis supplied]

Neither of the above noted "grounds" matches Mr. Caruthers' allegations. Then a further analysis must be done prior to the State Board of Equalization hearing an appeal. It must be determined that the State Board of Equalization has the authority and jurisdiction to hear the appeal pursuant to our governing statute of TENNESSEE CODE ANNOTATED § 67-5-1501. In reviewing the aforementioned statutes the basis/ground that Mr. Caruthers complains of, does not in this administrative judges' opinion, meet the requirements.

The jurisdiction and duties for the State Board are set out below for the filing of appeals:

- (a) The state board of equalization has jurisdiction over the **valuation, classification and assessment** of all properties in the state.
- (b) The board shall have and perform the following duties:
 - (1) Receive, hear, consider and act upon complaints and appeals made to the board;
 - (2) Hear and determine complaints and appeals made to the board concerning exemption of property from taxation;
 - (3) Take whatever steps it deems are necessary to effect the equalization of assessments, in any taxing jurisdiction within the state in accordance with the laws of the state;
 - (4) Carry out such other duties as are required by law; and
 - (5) Provide assistance and information on request to members and committees of the general assembly relative to the taxation, classification and evaluation of property. [emphasis supplied]

Further, a judicial interpretation of the statute states:

Procedures set forth in T.C.A. § 67-1-901, T.C.A. § 67-5-509, T.C.A. § 76-5-1407, and T.C.A. § 67-5-1501 **are the exclusive means for challenging an erroneous property tax assessment**, outside of filing a lawsuit based on purely legal issues. The Metro. Government of Nashville & Davidson County Ex Rel. State v. Taxpayers, - S.W.3d -, 2005 Tenn. App. LEXIS 195 (Tenn. Ct. App. Mar. 31, 2005), appeal denied 2005 Tenn. LEXIS 743 (Tenn. Aug. 29, 2005). [emphasis supplied]

Once more, none of the aforementioned statutes coincide with Mr. Caruthers allegation. The challenge against the County Board is legal in nature¹. Mr. Caruthers as the Movant has the burden to prove the ground alleged, here he has failed to do so. Uniform Rules of Administrative Procedure 1360-4-1-.09

The Board certainly has an inherent authority to correct clerical mistakes while it is in session as the proof establishes in this case². To challenge the actuality legality of the County Board actions Mr. Caruthers has chosen the wrong forum.

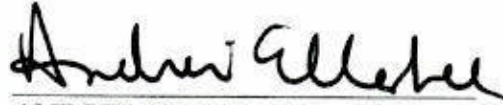
¹ "The final manner of appealing an error in assessment occurs where the claimed error raises purely legal issues. In that case, the taxpayer may bypass the administrative process altogether and proceed directly through the courts". *Fentress County Bank v. Holt*, 535 S.W.2d 854,857 (Tenn. 1976). Further, pursuant to T.C.A. § 67-5-1514 (c)(D) it is questionable whether Mr. Caruthers would be the proper person to represent this taxpayer making this argument.

² Here Mr. Caruthers alleges that the Board was not in session on March 20th, 2003 as the session ended on March 19th, 2003. However, Exhibit C shows that the Correction Letter was sent on March 20th not that the action took place on March 20th, in fact the letter is actually dated November 4, 2002, there is no proof as to the date of the action.

Therefore considering all the foregoing, the Motion to Dismiss is denied, it is further the opinion of the administrative judge that the appeal itself is dismissed for lack of proper authority of this Board to hear such arguments.

It is so **ORDERED**.

Entered on this the 10th day of July, 2006.



ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

cc: Jerry Caruthers, Caruthers and Associates, Agent
John Zelinka, Attorney for the Shelby County Assessor of Property
Tameaka Stanton-Riley, Shelby County Assessor of Property Office